

Message Text

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ORIGIN EB-07

INFO OCT-01 EUR-12 IO-10 ISO-00 L-02 CIAE-00 COME-00

DODE-00 DOTE-00 FMC-01 INR-07 NSAE-00 CG-00 OFA-01

DLOS-03 AID-05 CEA-01 EA-06 FRB-03 NEA-09 OPIC-03

SP-02 TRSE-00 CIEP-01 LAB-04 SIL-01 OMB-01 SS-15

NSC-05 /100 R

DRAFTED BY EB/TT/MA:JPSTEINMETZ/L/EB:FWILLIS:BS

APPROVED BY EB/TT/MA:JPSTEINMETZ

IO/CMD:RHINES

EB/OT/GCP:HCBLACK

FMC:WJSMITH

COM/IEPR:EANTOUN

EUR/RPE:WCLARK

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TO USMISSION OECD PARIS PRIORITY

INFO USMISSION EC BRUSSELS

USMISSION GENEVA

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C O N F I D E N T I A L STATE 103206

E.O. 11652: GDS

TAGS: EWWT, EFIN, OECD, UN

SUBJECT: COUNCIL DELIBERATIONS: OECD CODE OF
LIBERALIZATION/UN CODE OF CONDUCT FOR LINER CONFERENCES

REF: OECD PARIS 10765

1. DEPARTMENT SUPPORTS VIEW DESCRIBED PARA 4, REFTTEL,
THAT THERE IS MERIT AT THIS STAGE TO GETTING SUBJECT TO
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OECD COUNCIL TO OBTAIN HIGH LEVEL EUROPEAN GOVERNMENT
ATTENTION ON QUESTION OF CODE OF LIBERALIZATION. WE ALSO
FEEL THERE IS MERIT IN KEEPING IT BEFORE COUNCIL FOR A
TIME WITHOUT FINAL ACTION, SO THAT BROADER INPUT OF AGENCIES

OF RESPECTIVE EUROPEAN COUNTRIES WILL HAVE TIME TO DEVELOP
AND AFFECT THEIR COUNTRIES' FINAL VIEWS.

2. MISSION, AT ITS DISCRETION, MAY ALSO CONSIDER PROMOTING FOLLOWING WITH LMCS BEFORE COUNCIL: A) PRESS FOR OECD LEGAL ADVISOR'S OPINION ON GROUNDS CITED PARA 8, REFTEL, AS WELL AS NECESSITY OF LEGAL VIEW INDEPENDENT OF MEMBER GOVERNMENT VIEWS TO PROVIDE COUNCIL WITH NEEDED PERSPECTIVE DURING DELIBERATION OF INVISIBLES COMMITTEE REPORT AND OTHER OECD COMMITTEE COMMENTS THEREON.

B) INTERJECT INTENTION OF LMC'S TO REQUEST LEGAL OPINION FROM UNCTAD LEGAL OFFICE COVERING DIFFERING VIEWS OF THE TWO SIDES IN OECD ON THE NATURE OF LEGAL OBLIGATIONS CONTAINED IN THE UN LINER CODE.

3. FYI. REQUEST ENVISAGED IN 2(B) ABOVE COULD BE MADE AT EITHER 15TH SESSION TDB (AUGUST 5-15) OR COMMITTEE ON SHIPPING (NOVEMBER 10-21). HOWEVER, WE BELIEVE BETTER APPROACH WOULD BE JOINT STATEMENT OF LMCS IN COUNCIL THAT THEIR RESPECTIVE GENEVA MISSION REPS WILL BE INSTRUCTED TO DELIVER JOINT NOTE TO UNCTAD SG REQUESTING LEGAL INTERPRETATION AND INDICATING SHOULD LEGAL OFFICE FAIL TO ACCEDE TO REQUEST, LMCS MIGHT CONSIDER RAISING ISSUE IN TDB OR COMMITTEE ON SHIPPING. LATTER POINT WOULD ALSO BE MADE ORALLY TO SG, IN HOPE THAT LEGAL OFFICE MIGHT RECONSIDER INITIAL NEGATIVE STANCE IF ONLY TO AVOID HAVING THIS CONTENTIOUS MATTER RAISED IN AN UNCTAD PLENARY. SHOULD THE LEGAL OFFICE REFUSE THE REQUEST, WE HAVE LOST LITTLE, AND AT THE SAME TIME HAVE NOT LOCKED OURSELVES INTO HAVING TO RAISE THE ISSUE IN A FUTURE UNCTAD PLENARY. OUR THINKING WOULD BE NOT TO RAISE ISSUE WITH UNCTAD, IN ANY EVENT, UNTIL AFTER JUNE 30. WE BELIEVE LOW PROFILE ON CODE IN UNCTAD IS ADVISABLE AT LEAST UNTIL TIME FOR SIGNATURE HAS EXPIRED. END FYI. SHOULD THERE BE SUPPORT FOR THIS TACTIC DEPARTMENT WOULD COORDINATE APPROACH WITH LMCS GOVERNMENTS.
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4. DEPARTMENT RECOGNIZES OPTION 2(B) ABOVE IRRELEVANT TO FINAL CONCLUSIONS WHICH WILL BE REACHED BY COUNCIL. HOWEVER, IT SHOULD SERVE TO MAINTAIN ANTI-CODER COHESION AND MOMENTUM DURING AND IRRESPECTIVE OF OUTCOME OF COUNCIL DELIBERATIONS AND TO RE-EMPHASIZE LMCS ARE NOT ABOUT TO ACCEPT OECD PRO-CODERS VIEW RE NON-MANDATORY NATURE OF UN CODE CONVENTION. KISSINGER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 26 AUG 1999
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CARGO, MARINE TRANSPORTATION, MARITIME MEETINGS, STANDARDS
Control Number: n/a
Copy: SINGLE
Draft Date: 02 MAY 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: ElyME
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975STATE103206
Document Source: ADS
Document Unique ID: 00
Drafter: EB/TT/MA:JPSTEINMETZ/L/EB:FWILLIS:BS
Enclosure: n/a
Executive Order: 11652 GDS
Errors: n/a
Film Number: D750155-0439
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t197505101/baaaaipo.tel
Line Count: 105
Locator: TEXT ON-LINE, TEXT ON MICROFILM
Office: ORIGIN EB
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators:
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: ElyME
Review Comment: n/a
Review Content Flags:
Review Date: 10 APR 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <10 APR 2003 by Izenbel0>; APPROVED <01 OCT 2003 by ElyME>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
05 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: <DBA CORRECTED> jms 971007
Subject: n/a
TAGS: EFIN, EWWT, UN, OECD
To: OECD PARIS INFO EC BRUSSELS
GENEVA
USUN N Y
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006